

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FINJAN, INC.,
Plaintiff,

v.

PROOFPOINT, INC., et al.,
Defendants.

Case No. 13-cv-05808-HSG

**ORDER DENYING ADMINISTRATIVE
MOTION AND SETTING CASE
SCHEDULE**

Re: Dkt. No. 119

On February 6, 2015, Defendants Proofpoint, Inc. and Armorize Technologies, Inc. filed an Administrative Motion requesting this Court: (1) construe an unspecified number of claim terms beyond the ten-term maximum specified in this District's Patent Local Rules; (2) permit the parties ten additional pages in their respective opening and responsive briefs to construe additional claim terms; and (3) permit Defendants to file a 15-page surreply. *See* Dkt. No. 119.

Defendants' Administrative Motion is **DENIED**. Neither party nor judicial resources will be conserved by construing terms that may never be at issue in this case. *See* Dkt. No. 119 at 4 ("At this stage, however, neither the Court nor Proofpoint can predict which claims Finjan might ultimately elect."). Moreover, Defendants have not attempted to explain which of its "over 80" proposed terms should be construed, why those constructions are or could be necessary to the resolution of this case, or their likelihood of remaining necessary after Finjan's asserted claims are whittled-down to 24. Broad and conclusory generalizations that "the parties and the Court would benefit from early resolution of their disputes" or that the construction of additional claim terms "will positively impact the litigation" are not sufficient to demonstrate good cause. *See* Dkt. No. 119 at 1, 3. Should construction of additional terms prove necessary after Finjan has elected its final asserted claims, the Court will provide the parties a supplemental briefing schedule to

address those constructions.¹


Nor have Defendants demonstrated good cause to depart from the default schedule for claim construction briefing set by Patent Local Rule 4-5. A surreply is not provided by that Rule. Defendants have offered no argument as to why claim construction in this particular case merits alteration of the schedule contained in Rule 4-5. Accordingly, the Court sets the following schedule for this case:

Event	Deadline
Opening Claim Construction Brief	May 1, 2015
Opposition Claim Construction Brief	May 15, 2015
Reply Claim Construction Brief	May 22, 2015
Claim Construction Tutorial	June 2, 2015 (10:00-11:30 am)
Claim Construction Hearing	June 24, 2015 (10:00 am - 1:00 pm)
Comply with P.L.R. 3-7	50 days after claims construction order
Close of Fact Discovery	September 2, 2015
Final Election of Asserted Claims	September 9, 2015
Final Election of Asserted Prior Art	September 16, 2015
Opening Expert Reports	September 23, 2015
Rebuttal Expert Reports	October 14, 2015
Close of Expert Discovery	October 28, 2015
Last Day to File Dispositive Motions	November 11, 2015
Opposition to Dispositive Motions	November 25, 2015
Reply to Dispositive Motions	December 2, 2015
Dispositive Motion Hearing Date	December 17, 2015
Final Pretrial Conference	February 23, 2016
Trial	March 7, 2016

The Court will consider alterations to this schedule only upon a showing of good cause.

IT IS SO ORDERED.

Dated: April 2, 2015


HAYWOOD S. GILLIAM, JR.
United States District Judge

¹ Because the Court denies Defendants' request to brief additional terms, there is no need for the parties to submit additional pages in their respective opening and responsive briefs.